

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BLACKI FLORINCEO ALVAREZ, Sr.,

No. 2:21-cv-1976 JAM CKD P

Plaintiff,

ORDER

AMADOR COUNTY SUPERIOR
COURT, et al.,,

Defendants.

Plaintiff is a county inmate proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has been granted leave to proceed with this action in forma pauperis pursuant to 28 U.S.C. § 1915.

On November 15, 2021, and November 17, 2021, plaintiff filed a request for a court-appointed investigator, a legal runner, and payment of expert witness fees. The expenditure of public funds on behalf of an indigent litigant is proper only when authorized by Congress. Tedder v. Odel, 890 F.2d 210 (9th Cir. 1989). The in forma pauperis statute does not authorize the expenditure of public funds for investigators, legal runners, or expert witnesses. See 28 U.S.C. § 1915.

Plaintiff has also requested the appointment of counsel. District courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States

1 Dist. Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an
2 attorney to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1); Terrell v. Brewer,
3 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir.
4 1990). When determining whether “exceptional circumstances” exist, the court must consider
5 plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to articulate his
6 claims pro se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d
7 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel).
8 The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances
9 common to most prisoners, such as lack of legal education and limited law library access, do not
10 establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

11 Having considered the factors under Palmer, the court finds that plaintiff has failed to
12 meet his burden of demonstrating exceptional circumstances warranting the appointment of
13 counsel at this time.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff’s motions for an investigator, court runner, expert witness, and the
16 appointment of counsel (ECF Nos. 8, 9) are denied.
17 2. The motion for the appointment of counsel is denied without prejudice.

18 Dated: November 30, 2021


19 CAROLYN K. DELANEY
20 UNITED STATES MAGISTRATE JUDGE